



City of Carmel

Carmel/Clay Board of Zoning Appeals

August 26, 2002

The regularly scheduled meeting was held at 7:00 PM in the Council Chambers of Carmel City Hall on August 26, 2002. Those members in attendance: Leo Dierckman, Michael Mohr, Earlene Plavchak, Pat Rice, and Charles Weinkauff, thereby establishing a quorum.

Department of Community Services Staff in attendance: Director Michael Hollibaugh, Laurence Lillig, and Code Enforcement Officer Adrienne Keeling. John Molitor, Legal Counsel, was also present.

The minutes of the July 2002, August 1 and August 8, 2002, meetings were approved as submitted.

John Molitor reported the Executive Session discussion preceding this meeting was limited to the discussion of three pending litigations.

Laurence Lillig noted 1-13j would be heard. The Plan Commission approved an ADLS package for this project on August 20, 2002. The following items have been withdrawn from that list: V-55-02, V-56-02, V-57-02, V-58-02, V-61-02, V-62-02, V-63-02, V-64-02, V-65-02, and V-66-02. The items remaining will be V-54-02, V-59-02, and V-60-02. Tabled again this month is the Burton accessory building, V-92-02, and also tabled is item 20j, the Evangelical Baptist Mission, VU-150-02. Finally, item 21j, Hazel Dell Christian Church, SUA-151-02, will require a suspension of rules to be heard, as the published notice was one day late.

1i. **Emerald Crest at Hazel Dell Summit Amenity Area (SU-13-00)**

Department to update the Board on the status of the Special Use approval granted July 24, 2000, per *Section 5.2: Permitted Special Uses* in order to establish a private recreational facility.

The site is located at 5748 Sapphire Drive. The site is zoned S-1/Residence - Low Density.

Included in the Department Report is the summary of the activity on the Emerald Crest Pool. The August 9, 2002, deadline was not met by the Petitioner and they have not contacted the Department. On Monday, August 12, 2002, the Department turned the matter over to the Department of Law and to Code Enforcement for further action and that is where it stands.

J. Public Hearing:

1-13j. ***Tabled pending possible August 20, 2002, Plan Commission approval of ADLS.***

Carmax Auto Superstores (V-54-02; V-55-02; V-56-02; V-57-02; V-58-02; V-59-02; V-60-02; V-61-02; V-62-02; V-63-02; V-64-02; V-65-02; V-66-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-54-02	§14.6: Landscaping Requirements	15' north and east bufferyards
V-55-02	§25.7.01-2	8' traffic directional sign E1
V-56-02	§25.7.01-2	4-square-foot traffic directional sign E1
V-57-02	§25.7.01-2	8' traffic directional sign E2
V-58-02	§25.7.01-2	4-square-foot traffic directional sign E2
V-59-02	§25.7.02-8(b)(i)	five (5) identification signs (A, B, B1, C, D)

V-60-02	§25.7.02-8(b)(ii)	three (3) id signs oriented east (B, C, D)
V-61-02	§25.7.02-8(c)	193-square-foot wall identification sign A
V-62-02	§25.7.02-8(c)	193-square-foot wall identification sign C
V-63-02	§25.7.02-8(c)	78.33-square-foot ground identification sign B
V-64-02	§25.7.02-8(c)	78.33-square-foot ground identification sign B1
V-65-02	§25.7.02-8(d)	8' ground identification sign B
V-66-02	§25.7.02-8(d)	12' 3½" ground identification sign B1

The site is located on the northwest corner of East 96th Street and Gray Road. The site is zoned B-3/Business.

Filed by E. Davis Coots of Coots Henke & Wheeler for Carmax Auto Superstores, Inc.

Present for Petitioner: E. Davis Coots, 255 E. Carmel Drive, Carmel, IN. The project received Plan Commission approval August 20, 2002. Part of the approval process was the withdrawal by Carmax of part of the sign requests, reducing the variance applications to three, two affecting signage and one affecting the bufferyard. Copies were distributed. Wall signs are for the south and east elevations of the building. The wall signs are within the Ordinance permitted size and are permitted by the Ordinance. The variance is for a second wall sign on the east side of the building to identify the Carmax Service entrance. The second variance pertains to additional ground signs at the entryways at 96th Street and at Gray Road. The third variance reduces the bufferyard from 30 feet to 15 feet, increasing the landscaping.

Members of the public were invited to speak in favor of, or opposition to the petitions. No one appeared and the public hearing was closed.

Mr. Lillig gave the Department Report. The Department recommends favorable consideration of the variances, with two conditions. First, the sign variances be granted with specific reference to the designs as presented to the Board and approved by the Plan Commission. Second, the street address should appear on both of the ground signs.

Mr. Coots stated the absence of the address on the drawing was an oversight. There is no problem building what was approved by the Plan Commission.

Mrs. Rice acknowledged the positive response to the Plan Commission's concerns, including changes in material, use of signs, and conforming to architecture of the building.

Mrs. Rice moved to approve **V-54-02, Carmax Auto Superstores**. The motion was seconded by Mr. Dierckman and **APPROVED 5-0**.

Mrs. Plavchak moved to approve, with conditions, **V-59-02, Carmax Auto Superstores**. The motion was seconded by Mr. Dierckman and **APPROVED 5-0**.

Mrs. Plavchak moved to approve **V-60-02, Carmax Auto Superstores**. The motion was seconded by Mrs. Rice and **APPROVED 5-0**.

14j. ***Tabled indefinitely at request of petitioner.***

Burton Accessory Building (V-92-02)

Petitioner seeks approval of a Developmental Standards Variance of *Section 25.1.1(B)(1): Maximum Height* in order to construct a 19' 10" accessory building.

The site is located at 3227 East 136th Street. The site is zoned R-1/Residence.

Filed by J. Scott Burton.

15-16j. Carmel Science & Technology Park, Block 17, Lot 1 - Old Meridian Medical (V-145-02; V-146-02)

Petitioner seeks renewal of Development Standards Variances of *Sections 3.7: Vision Clearance on Corner Lots* and *25.7.02-11(e): Location* to reduce the setback from right-of-way from ten feet to 0.93 feet on Old Meridian Street and 8.28 feet on West Carmel Drive. The site is located on the southeast corner of West Carmel Drive and Old Meridian Street. The site is zoned OM-O/Old Meridian - Office.

Filed by Paul G. Reis of Drewry Simmons Pitts & Vornehm for Old Meridian Investments.

Present for Petitioner: Paul Reis, 5013 Buckeye Court, Carmel, IN. This sign is located within the vision triangle and too close to the right-of-way. The City has begun work on the upgrading at this intersection. The sign is within the potential temporary construction easement. There is a substantial grade change. The Department of Community Services and the City Engineer believe the grading will not have any impact on this sign. The Petitioner will remove the sign and relocate it at the time of the improvements. The Petitioner cannot relocate the sign in accordance with the sign ordinance. That would place the sign in the parking lot. This petition variance is to relocate the sign back to its original placement

Members of the public were invited to speak in favor of, or opposition to the petitions. No one appeared and the public hearing was closed.

Mr. Lillig gave the Department Report. Engineering Department hopes construction will not affect this sign, but they are not entirely certain that will be the case. The Board may need to revisit this issue if this sign needs to be replaced in another location.

Mrs. Rice asked if DOCS could leave this sign relocation open for review, with a recommendation to BZA if needed.

Mr. Molitor stated this would need a continuing variance from the sign ordinance.

Discussion followed.

Motion restated:

15-16j. Carmel Science & Technology Park, Block 17, Lot 1 - Old Meridian Medical (V-145-02; V-146-02)

Petitioner seeks renewal of Development Standards Variances of *Sections 3.7: Vision Clearance on Corner Lots* and *25.7.02-11(e): Location* to reduce the setback from right-of-way from ten feet to 0.93 feet on Old Meridian Street and **0 feet on West Carmel Drive chamfer**. The site is located on the southeast corner of West Carmel Drive and Old Meridian Street. The site is zoned OM-O/Old Meridian - Office. Filed by Paul G. Reis of Drewry Simmons Pitts & Vornehm for Old Meridian Investments.

Mr. Weinkauff moved to approve **V-145-02 and V-146-02, Carmel Science & Technology Park, Block 17, Lot 1 - Old Meridian Medical** as read and with written commitment that the expense to move the sign be born by the Petitioner. Mrs. Rice seconded the motion.

Mr. Lillig explained a chamfer is a diagonal right-of-way at an intersection. Typically they are asked for to accommodate traffic directional poles, etc. It is a standard request for the County. The City looks for a 20-foot curb radius at intersections.

The petitions were **APPROVED 5-0**.

17j. **Lakes at Hayden Run, Section 1, Block A (SU-147-02)**

Petitioner seeks Special Use approval in order to establish a private recreational facility on 1.249± acres.

The site is located at 13175 Roma Bend. The site is zoned S-1/Residence - Estate.

Filed by Tom Kutz of Centex Homes.

Present for Petitioner: Tom Kutz, 6602 E. 75th Street, Suite 100, Indianapolis, IN 46250. The project will include a 2000 square foot pool, a kiddie swimming pool, a bathhouse with men and women's restrooms, a pool equipment room and a storage room, with an associated parking lot.

Remonstrance:

Tom Neal, 2555 W. 131st Street, Carmel, IN. He was interested in the lighting at night. He would like to see them keep lighting down and would like to see a layout.

Rebuttal:

Mr. Kutz stated there would be two floodlights off back corners of the building to shine on the pool area. They will be operated by a photocell. They will shine on the pool and pool deck throughout the night. Exterior coach lights will be mounted on the base of the building. Landscape lighting will be used in the front of the building to shine toward the face of the building. The hours of operation will be dusk to dawn. A lifeguard will be on duty.

Mr. Lillig gave the Department Report. He recommended favorable consideration with the following conditions: 1) The Secondary Plat for the Lakes at Hayden Run be recorded prior to an Improvement Location Permit being issued for this project; 2) All outstanding Technical Advisory Committee issues be resolved prior to the issuance of an Improvement Location Permit for this project; and 3) The Landscape Plan approval be delegated to the Urban Forester, and that such approval be granted prior to the issuance of an Improvement Location Permit for this project. The only outstanding TAC concerns are an approved Landscape Plan by the Urban Forester and an Erosion Control Plan that has been accepted by Soil and Water Conservation.

Mr. Kutz stated they have not received anything from Soil and Water. An Erosion Control Plan was done for the entire Phase 1 of this project in which this facility resides. Erosion Control Plan for entire area being developed is on file.

Mr. Lillig stated that Emerald Crest had no time limit to submit Landscape Plan to Urban Forester and one had not been received 25 months later. The Department has not had any complaints about Centex, but that is why the Department is asking for approvals before an ILP is issued.

Mr. Weinkauff had questions regarding the dimensions of the pool. He had concern that the pool is functional, not just decorative or for wading. A pool needs to be 75 feet in length, 36 feet wide and 3.5 feet deep for competitive swimming.

Mr. Kutz stated the pool would be 75 feet long and 26 feet 8 inches wide. Lane stripes will be painted on the bottom. The depth will be 3 feet to 6 feet. The Haverstick community pool was this same size and diving was not allowed. A swim team had not been considered.

Mr. Mohr stated that the pool is adequate for the number of residents to be functional, but is not an obligation to be built for competitive swimming.

Discussion followed concerning making the pool appropriate for competitive swimming, insurance for the facility, and access to the pool.

Mrs. Rice asked if Mr. Neal's concerns had been adequately addressed.

Mr. Neal stated excessive nighttime illumination that was not needed for security was the concern. They were opposed to tall mercury lights, which are intrusive. What he had heard seemed appropriate.

Mr. Kutz stated the pool would be built for the competitive swimming specifications. The Homeowners Association would have the rights for allowing for these events.

Mr. Weinkauff moved to approve **SU-147-02, Lakes at Hayden Run, Section 1, Block A** with the provision that the swimming pool be 75 feet long by a minimum of 32 feet, preferably 36 feet in width and at least 3.5 feet throughout the entire pool and along with the Conditions laid out in the Department Report. The motion was seconded by Mrs. Rice and **APPROVED 4-0** with Mr. Dierckman abstaining.

18-19j. Henderson/Laurelwood Accessory Building (V-148-02; V-149-02)

Petitioner seeks Development Standards Variances of *Sections 25.1.1(A)(2) and 25.9: Drainage* in order to establish an accessory building on a parcel without a principal building and to fill within the floodplain of Spring Mill Run creek.

The site is located at 10211 Ditch Road. The site is zoned S-1/Residence - Very Low Density.

Filed by Bill Butz of Mid-States Engineering for R.J. Klein & Associates.

Present for Petitioner: R. J. Klein. This variance is for a maintenance building to take care of the 10 acres. The building will match the principal building. It is strategically placed because of the lift station adjacent to this 10 acres property. It will not be visible from Ditch Road. Both doors will be visible from the house for security reasons. DNR approval was received to put this building in the flood plain. The area will be developed like a private park.

Members of the public were invited to speak in favor of, or opposition to the petitions. No one appeared and the public hearing was closed.

Mr. Lillig gave the Department Report. The Department recommends negative consideration of Docket V-149-02 to place the structure in the floodway. Moving the structure northwest along the same sightline outside the floodway, the same effect could be achieved. Visual screening could still be accomplished using landscaping materials. At the August 22, 2002, TAC meeting, the Urban Forester, the Department of Community Services, Hamilton County Surveyor's Office, and the Hamilton County Soil and Water Conservation District all recommended against locating the structure within the floodway. The Department is recommending favorable consideration of Docket V-148-02 with condition the structure be located outside the floodway of Spring Mill Run and a revised sight plan be submitted.

Mr. Weinkauff stated there was concern by various departments for locating in the floodway, even with DNR approval. He asked for this to be explained.

Mr. Lillig stated the Surveyor's office said that if Spring Mill Run were a regulated drain, which it is not today, they would not issue a permit for this under any circumstance. The Hamilton County Soil and Water is concerned with erosion and the deposition of material into the streams, specifically traveling downstream and plugging waterways. Generally speaking, everyone on the Technical Advisory Committee concurred from a drainage standpoint, this sort of activity is against the best interest of drainage, not just for Clay Township, but also for Hamilton County in general. One structure does not seem like much. But there is a cumulative effect. The DNR does not seem to turn down an application. The Department is concerned with the effects on the floodway, the effects on drainage and erosion, and the effects on repairing the corridor and the habitats along that stream.

Mr. Weinkauff asked if the Petitioner had considered putting the structure outside the floodway.

Mr. Klein stated this is a natural place to put the building. The Engineer did 4 months of studies. The site is two feet above floodway and has not flooded in 30 years.

Mohr asked Mr. Henderson if he was bothered by any Department concerns.

Mr. Henderson felt he would be enhancing the property. He did not think the floodplain lines were correct. He was convinced it would not flood.

Discussion followed concerning the floodway, the DNR report, and moving the structure and using landscaping.

Mrs. Rice asked if anyone could discuss the DNR report and why DNR said it was OK to build in the floodway.

Bill Butz, an engineer with Mid States Engineering, 350 E. New York Street, Indianapolis, IN 46204. He worked with DNR and the computerized study. The effect was less than 100th of an inch difference in the 100-year flood elevation, so the impact would be minimal, if any. Erosion control measures are proposed behind the building.

Mr. Lillig stated the various departments are concerned with the cumulative effect of all the permits being granted, not just one.

More discussion of DNR report and this application followed.

Mr. Molitor stated if the first variance (V-148-02) is approved, it would be okay to build on this lot. If the structure is not in the floodplain, they just need a building permit. There is no time penalty

Mr. Henderson asked if DNR is a lesser approving body than this Board.

Mr. Mohr stated the Board will look at the Department Report and make a decision

Mr. Molitor stated that under State regulations, DNR has the ability to say it is okay to build in a floodplain under certain conditions. This body decides local regulations under the Carmel Zoning ordinances to build in a floodway. This body is within its rights if it so chooses to enforce a local regulation that happens to be more stringent than a State regulation. The local government could give approval and the State could deny a request.

Mr. Weinkauff told Mr. Henderson that if he is not pleased, he can voluntarily table this variance and extend an invitation to this Board and County officials to visit this property.

Mrs. Rice stated Mr. Henderson could also check with the other entities to see if they visited the site. She felt Petitioners do not always understand the process before they get to this point.

Mr. Lillig stated that this was the first time Mr. Henderson had been involved in the process.

Mr. Dierckman moved to approve **V-148-02, Henderson/Laurelwood Accessory Building**. The motion was seconded by Mrs. Plavchak and **APPROVED 5-0**.

Mr. Dierckman moved to approve **V-149-02, Henderson/Laurelwood Accessory Building**. The motion was seconded by Mrs. Rice and **DENIED 4-1**, with Mr. Mohr casting the affirmative vote.

20j. **Evangelical Baptist Mission (UV-150-02) tabled**

Petitioner seeks a Use Variance of *Section 7.1: Permitted Uses* in order to establish a missionary training facility and offices on 3.6± acres.

The site is located northeast of the intersection of West 96th Street and Shelborne Road. The site is zoned R-1/Residence.

Filed by Charles D. Frankenberger of Nelson & Frankenberger for Evangelical Baptist Missions.

21j. **Hazel Dell Christian Church (SUA-151-02)**

Petitioner seeks to amend the Special Use granted under **Docket No. SU-20-99** in order to establish several modular classrooms.

The site is located at 14501 Hazel Dell Parkway. The site is zoned S-1/Residence - Low Density.

Filed by Alan K. Peterson of Hazel Dell Christian Church.

Mr. Dierckman moved to suspend the rules for the Public Hearing notice. The motion was seconded by Mrs. Plavchak and **APPROVED 5-0**.

Present for Petitioner: Alan Peterson, 12918 Double Eagle Drive, Carmel, IN. The church is in the process of designing an expansion. They have run out of classroom space and need a temporary solution for the next two years until the expansion is constructed.

Members of the public were invited to speak in favor of, or opposition to the petition. No one appeared and the public hearing was closed.

Mr. Lillig gave the Department Report. The Department is recommending favorable consideration of the petition with the condition that any TAC concerns be resolved.

Discussion followed regarding the visibility and location of the classrooms.

Mr. Dierckman moved to approve **SUA-151-02, Hazel Dell Christian Church** after all TAC concerns have been met. The motion was seconded by Mrs. Rice.

Discussion followed regarding the length of time for placement of the modular classrooms.

Mr. Molitor stated that the Board could give a time limit for how long the modular classrooms can be in place. The Petitioner could come back and either propose permanent a facility or renew the variance for the modular classrooms.

Mr. Weinkauff moved to amend the motion to add a three-year time limit for the use of the modular classrooms subject to reappearing before this Board if an extension is needed after that three-year time frame.

There was no second to the motion for amendment, therefore the motion died.

The motion on **SUA-151-02, Hazel Dell Christian Church** was **APPROVED 5-0**.

K. Old Business.

1k. East 96th Street Office Campus (UV-176-00).

Petitioner seeks approval of revised Center Identification and Address signage, as well as approval of Tenant signage.

The site is located at 2900, 2910, 2920 & 2930 East 96th Street. The site is zoned S-2/Residence. Filed by Michael T. Mance of Paragus.

Present for petitioner: Michael T. Mance, 2920 E. 96th Street, Indianapolis, IN. Since the variance was approved in November, 2000, three more buildings have been constructed and the Petitioner would like to change the design, not size, of the proposed signs. Each building will have a specific address and each door will be a suite. A sign monument in front of each building will have the address for the building. Packets were distributed.

Discussion followed regarding size, lighting, color and design of entrance monument, tenant signage and address signs. Material samples were displayed.

Mr. Dierckman moved to approve **UV-176-00, East 96th Street Office Campus**, with signs limited to 2 tenant signs per building and no backlighting. The motion was seconded by Mrs. Rice and **APPROVED 5-0.**

L. New Business.

1L. There was no New Business on the August 26, 2002, agenda of the Board of Zoning Appeals.

John Molitor suggested the next Executive Session be Thursday, September 12 at any time. There is a need to discuss pending litigations.

Discussion followed.

The next Executive Session was tentatively set for Thursday, September 12, 2002, at 11:30 AM.

M. Adjourn.

Mr. Weinkauff moved to adjourn. The motion was seconded by Mrs. Plavchak and **APPROVED 5-0.**

The meeting was adjourned at 9:45 PM.

Michael Mohr, President

Connie Tingley, Secretary